

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1360

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 77-1360

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

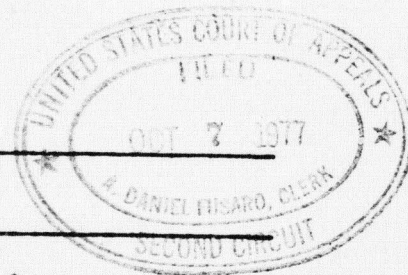
IVAN GOLDMAN, et al.,

Defendants-Appellants.

B
p/s

On Appeal from the United States District Court
for the Southern District of New York

APPENDIX



10/7

STEVEN J. HYMAN
370 Lexington Avenue
New York, New York 10017

Attorney for Appellant
Ivan Goldman

PAGINATION AS IN ORIGINAL COPY

- 12
- 16-77 ✓ Filed Superseding Indictment & referred to Goettel, J.
.....Stewart, J.
- 18-77 Court dismisses Original indictment....GOETTEL, J.
- 18-77 Court dismisses original ind, & proceeds with (S) Ind. DEft
W/atty Steven Hyman present. enters a N/G plea to (S) Ind.
DEft proceeds tp trial Jury trial begun...GOETTEL, J.
- 19-77 Jury trial continued- Motion of deft;s counsel to dismiss count
1 GRANTED. Count 2 of this ind. is dismissed by the Court. Court
requests another copy of ind. be submitted to Jurors eliminating
the 1 & 2 counts of ind. & renumbering the counts to read counts
2,3,4,5,6,7 & 8 of the (S) Ind.GOETTEL, J.
- 20-77 Trial continued & concluded- Jury panel begin their deliberations..GOETTEL, J.
- 23-77 Jurors continue deliberating-- Jury panel reached a verdict & find the deft.
GUILTY as charged on re-typed & re-nukbered (S) ind. , to counts
2,3, & 4 P esentence inv. ordered Date of sentence 7-19-77 at 9:30
A.M. Bail is continued at \$5,000 P.R.B.GOETTEL, J.
- 16-77 ✓ Filed JUDGMENT & COMMITMENT DEft & atty Steven Hyman present.
The deft is hereby committed to the custody of the Atty General
or his authorized representative for imprisonment for a period
of ONE (1) YEAR on counts 2,3, & 4 TO RUN CONCURRENT.....GOETTEL, J.
Copies issued
- 27 ✓ Filed notice of appeal from the judgmnet entered July 26, 1977
(copy to deft ----- & U.S. Atty)
- B
- 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

IVAN GOLDMAN, and
RUDY LEWIS,

Defendants.

INDICTMENT

S 77 Cr. 97

INTRODUCTION

The Grand Jury charges:

1. At all times relevant to this Indictment Guilford Mills, Inc. was incorporated and headquartered in Greensboro, North Carolina and was a producer of cloth fabric. Guilford Mills, Inc. had sales offices at 180 Madison Avenue, New York, New York operating under the names "Fashion III" and "Free Association Fabrics."

2. From on or about August 26, 1974 to on or about June 6, 1975, defendant IVAN GOLDMAN, was employed by Guilford Mills, Inc. at 180 Madison Avenue, New York, New York.

3. From on or about April 23, 1973 to on or about February 6, 1976, defendant RUDY LEWIS, was employed by Guilford Mills, Inc. at 180 Madison Avenue, New York, New York.

4. At all times relevant to this Indictment Cranston Print Works Inc. of Fletcher, North Carolina was an independent company contracted by Guilford Mills, Inc. to process the cloth fabric manufactured and owned by Guilford Mills, Inc. After the cloth fabric was processed, Guilford Mills, Inc. would direct Cranston Print Works, Inc. to ship the cloth fabric directly to Guilford's customers.

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5. At all times relevant to this Indictment, Bayer Eisenberg Textile Corporation, 54 White Street, New York, New York was a buyer of cloth fabric goods.

6. At all times relevant to this Indictment, Michael Cohen was an independent broker who arranged for the sale of cloth fabric goods from the manufacturer to the buyer.

7. Each and every allegation of this Introduction is hereby repeated, realleged and incorporated by reference in Counts One through Nine as though fully set forth therein.

COUNT ONE

The Grand Jury further charges:

8. From on or about the 1st day of January, 1975, up to and including the date of the filing of this Indictment, in the Southern District of New York, IVAN GOLDMAN and RUDY LEWIS, the defendants, unlawfully, wilfully, and knowingly did combine, conspire and agree together with each other and with other persons, to the Grand Jury known and unknown, to commit certain offenses against the United States, to wit, to violate Title 18, United States Code, Section 2314.

9. It was a part of said conspiracy that the defendants would unlawfully, wilfully and knowingly cause to be transported in interstate commerce from Cranston Print Works, Inc. Fletcher, North Carolina to Bayer Eisenberg Textile Corporation, 54 White Street, New York, New York goods and merchandise of a value exceeding \$5,000, to wit cloth fabric material, knowing the same to have been stolen, converted and taken by fraud.

10. In furtherance of the Conspiracy and to effect its objects, the following overt acts were committed in the Southern District of New York:

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OVERT ACTS

(1.) Prior to March 7, 1975, defendant IVAN GOLDMAN met with Michael Cohen and requested him to find a buyer for cloth fabric material.

(2.) On or about March 7, 1975, defendant IVAN GOLDMAN caused approximately 7,503 yards of cloth fabric material to be shipped from Cranston Print Works, Inc. to the Bayer Eisenberg Textile Corporation.

(3.) On or about April 8, 1975, defendant IVAN GOLDMAN received approximately \$1700 in cash from Michael Cohen. (700
22

(4.) Prior to April 16, 1975, defendant IVAN GOLDMAN met with Michael Cohen and requested him to find a buyer for cloth fabric material.

(5.) On or about April 16, 1975, defendant IVAN GOLDMAN caused approximately 9,872 yards of cloth fabric material to be shipped from Cranston Print Works, Inc. to Bayer Eisenberg Textile Corporation.

(6.) On or about April 17, 1975, defendant IVAN GOLDMAN received approximately \$2200 in cash from Michael Cohen.

(7.) Prior to April 25, 1975, defendant IVAN GOLDMAN met with Michael Cohen and requested him to find a buyer for cloth fabric material.

(8.) On or about April 25, 1975, defendant IVAN GOLDMAN, caused approximately 9,151 yards of cloth fabric material to be shipped from Cranston Print Works, Inc. to Bayer Eisenberg Textile Corporation.

(9.) On or about May 2, 1975, defendant IVAN GOLDMAN received approximately \$2400 in cash from Michael Cohen. 5

(10.) Prior to May 27, 1975, defendant IVAN GOLDMAN met with Michael Cohen and requested him to find a buyer for cloth fabric material.

(11.) On or about May 27, 1975, defendant IVAN GOLDMAN, caused approximately 8,977 yards of cloth fabric material to be shipped from Cranston Print Works, Inc. to Bayer Eisenberg Textile Corporation.

(12.) On or about June 3, 1975, defendant IVAN GOLDMAN received approximately \$2000 in cash from Michael Cohen.

(13.) Prior to August 4, 1975, defendant RUDY LEWIS, met with Michael Cohen and requested him to find a buyer for cloth fabric material.

(14.) On or about August 4, 1975, defendant RUDY LEWIS caused approximately 13,705 yards of cloth fabric material to be shipped from Cranston Print Works, Inc. to Bayer Eisenberg Textile Corporation.

(15.) On or about August 8, 1975, defendant RUDY LEWIS, received approximately \$4100 in cash from Michael Cohen.

(16.) Prior to September 23, 1975, defendant RUDY LEWIS met with Michael Cohen and requested him to find a buyer for cloth fabric material.

(17.) On or about September 23, 1975, defendant RUDY LEWIS caused approximately 16,902 yards of cloth fabric material to be shipped from Cranston Print Works, Inc. to Bayer Eisenberg Textile Corporation.

(18.) On or about October 2, 1975, defendant RUDY LEWIS, received approximately \$6100 in cash from Michael Cohen.

(19.) Prior to December 5, 1975, defendant RUDY LEWIS, met with Michael Cohen and requested him to find a buyer for cloth fabric material.

(20.) On or about December 5, 1975, defendant RUDY LEWIS caused approximately 16,198 yards of cloth fabric material to be shipped from Cranston Print Works, Inc. to Bayer Eisenberg Textile Corporation.

(21.) On or about December 11, 1975, defendant RUDY LEWIS, received approximately \$5300 in cash from Michael Cohen.

(22.) Prior to February 17, 1976, defendant RUDY LEWIS, met with Michael Cohen and requested him to find a buyer for cloth fabric material.

(23.) On or about February 17, 1976, defendant RUDY LEWIS, caused approximately 12,897 yards of cloth fabric material to be shipped from Cranston Print Works, Inc. to Bayer Eisenberg Textile Corporation.

(24.) On or about March 10, 1976, defendant RUDY LEWIS, received approximately \$6400 in cash from Michael Cohen.

(Title 18, United States Code, Section 371.)

COUNTS TWO THROUGH FIVE

The Grand Jury further charges:

11. On or about the dates hereinafter set forth below in the Southern District of New York IVAN GOLDMAN, the defendant, did unlawfully, wilfully and knowingly transport

and cause to be transported in interstate commerce from Cranston Print Works, Inc., Fletcher, North Carolina to Bayer Eisenberg Textile Corporation, New York, New York, goods, wares and merchandise of a value exceeding \$5,000. to wit, fabric material of the approximate retail value hereinafter set forth below, knowing the same to have been stolen, converted and taken by fraud:

<u>COUNT</u>	<u>DATE</u>	<u>APPROXIMATE RETAIL VALUE</u>
Two	March 7, 1975	\$ 8,253
Three	April 16, 1975	11,352
Four	April 25, 1975	11,051
Five	May 27, 1975	11,000

(Title 18, United States Code, Section 2314.)

COUNTS SIX THROUGH NINE

The Grand Jury further charges:

12. On or about the dates hereinafter set forth below in the Southern District of New York, RUDY LEWIS, the defendant, did unlawfully, wilfully and knowingly transport and cause to be transported in interstate commerce from Cranston Print Works, Inc., Fletcher, North Carolina, to Bayer Eisenberg Textile Corporation, New York, New York, goods, wares and merchandise of a value exceeding \$5,000, to wit, fabric material of the approximate retail value hereinafter set forth below, knowing the same to have been stolen, converted and taken by fraud:

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<u>COUNT</u>	<u>DATE</u>	<u>APPROXIMATE RETAIL VALUE</u>
Six	August 4, 1975	\$15,760
Seven	September 23, 1975	27,919
Eight	December 5, 1975	26,725
Nine	February 17, 1976	23,870

(Title 18, United States Code, Section 2314.)

FOREMAN

ROBERT E. FISKE, JR.
United States Attorney

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Gjc

Cohen - Direct

10 (A)

MR. AKERMAN: Your Honor, the Government calls
Michael Cohen.

M I C H A E L C O H E N, called as a witness by the
Government, being first duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. AKERMAN:

Q Mr. Cohen, you will have to speak up because it's
hard to hear back here. Would you please tell the jury by
whom you are employed?

A By myself.

Q What is your business?

A I'm a free lance textile broker and salesman.

Q Would you please tell the jury what a textile
broker does?

A I go to various textile firms, get samples and
bring it to a jobber or other firms and try to sell it to
them.

Q When you say samples, are these samples of cloth?

A Fabric samples. Cloth samples.

Q Would you please tell the jury what a jobber is?

A A jobber accumulates various items from different
firms and usually sells it to retail stores or department
stores.

1 Gjc Cohen - Direct 17

2 Q Do you also buy goods for wholesalers?

3 A Yes.

4 Q What type of goods do you normally deal?

5 A Mostly textile fabrics.

6 Q Approximately how many years have you been in that

7 business?

8 A Over fifty years.

9 Q Did there come a time in the course of your busin-

10 ess when you met an individual by the name of Ivan Goldman?

11 A I did.

12 Q Approximately when was that?

13 A Three, three and a half years ago.

14 Q How was it that you happened to meet Mr. Goldman?

15 A I was introduced by a friend who knew both of us.

16 Q Do you recall who that friend was?

17 A No, I don't.

18 Q Would you be able to recognize Mr. Goldman if you

19 saw him again?

20 A I do.

21 Q Do you see him here in the courtroom today?

22 A Right in front of me.

23 Q Would you please point him out to the jury?

24 A Right there.

25 Q What is he wearing, sir?

1 Gjc

Cohen - Direct

18

2 A A tie, blue shirt, curly hair.

3 MR. AKERMAN: May the record reflect,
4 Your Honor, that the witness has identified the defendant,
5 Ivan Goldman.

6 THE COURT: The record may so reflect.

7 Q Would you please tell the Jury where you first
8 met Mr. Goldman?

9 A At the office of Guilford Mills, 180 Madison
10 Avenue.

11 Q Was that here in New York City?

12 A In New York City.

13 Q What office was that again?

14 A Guilford Mills.

15 Q Did they go under any other name there?

16 A They have I think two or three other names.

17 Q Do you recall --

18 A I think one was Free Associates and the other is --
19 I'm not sure, but there is another name involved there.

20 Q Was the other name Fashion III?

21 A Fashion III, that's right.

22 Q Would you please tell the jury what happened at
23 this first meeting with Mr. Goldman?

24 I went up to their office and I asked him for some
25 samples in closeouts o seconds and he gave me some samples.

1 Gjc Cohen - Direct 19
2 I asked him the price of the goods. He gave me a price and
3 I told him I would let him know in a day or two whether I
4 could sell them.
5 Q You mentioned closeouts or seconds. What are
6 closeouts?
7 A Closeouts are fabrics that have been laying around
8 for a while -- either that or else one color in a group of
9 colors that has been left, or if it was a print, one print that
10 that might have been left out of a group of ten, twelve
11 prints.
12 Q Would you please tell the jury also what seconds
13 are in terms of cloth?
14 A Seconds is -- I imagine most of these ladies would
15 know. It's an imperfect -- either a misprint on a printed
16 fabric or if it was a solid color fabric, it's either a
17 misweave or a spot or a stain or maybe a hole sometimes.
18 Q Can you tell whether an item is a second by
19 looking at the sample?
20 A No.
21 Q Can you tell whether an item is a closeout by look-
22 ing at a sample?
23 A Well, they tell you what it was. If it was one
24 or two colors, it would be a closeout.
25 Q But they would have to tell you, is that right?

13

1 Gjc Cohen - Direct 20

2 A That's right.

3 Q This time that you met with Mr. Goldman for the

4 first time, was that the first time you dealt with Guilford

5 Mills?

6 A That's correct.

7 Q What did you do with these samples that Mr. Goldman

8 gave you at that first meeting?

9 A I brought them to a firm called Bayer-Eisenberg

10 downtown New York.

11 Q What kind of a firm is that?

12 A They are jobbers, so-called jobbers. They sell

13 to wholesalers, manufacturers and retailers.

14 Q Would they also be considered a wholesaler?

15 A Yes.

16 Q When you brought these samples to Bayer-Eisenberg,

17 who did you show them to there?

18 A Mr. Eisenberg.

19 Q Did Bayer-Eisenberg agree to buy the merchandise

20 represented by those samples?

21 A I don't recall whether we agreed on the price at

22 that time. If we didn't, I called Mr. Goldman and gave him

23 the counter-offer that Mr. Eisenberg might have given me and--

24 Q Did -- excuse me, go ahead.

25 A He said he would accept the offer.

14

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1 Gjc Cohen - Direct 21

2 Q Did you tell Mr. Goldman where to ship the goods?

3 A I did.

4 Q Where were the goods to go?

5 A Bayer - Eisenberg.

6 Q How were the goods to be paid for in this first

7 deal?

8 A Paid direct to either Guilford Mills or a factor.

9 Q What is a factor?

10 A A Factor is usually a finance company that finances

11 these people.

12 Q Did you receive any payment for those goods in

13 that first deal?

14 A No, sir.

15 Q Who paid your commission for actually finding

16 these goods for Bayer-Eisenberg?

17 A Bayer-Eisenberg did.

18 Q Approximately how many times did you deal with

19 Mr. Goldman and Bayer-Eisenberg in this manner in which you

20 arranged the sale of cloth fabric and Bayer-Eisenberg made

21 direct payments to Guilford?

22 A I imagine about five, six times.

23 Q Did there come a time when these sales were paid

24 for in a different way?

25 A Yes.

15

1 Gjc Cohen - Direct 22

2 Q Approximately when was that?

3 A I think it was in the early part of January 1975.

4 Q Would you please describe to the jury what Mr.

5 Goldman told you at that time?

6 MR. HYMAN: Objection to leading questions,

7 Your Honor.

8 THE COURT: Yes. At this point I think

9 you better stop leading. We are now getting to the

10 essential part of this.

11 Q Did you meet with Mr. Goldman at that time?

12 MR. HYMAN: Objection to a leading

13 question, Your Honor.

14 THE COURT: I'll allow that. Answer it.

15 Q Did you meet with Mr. Goldman at that time?

16 A I did.

17 Q What did Mr. Goldman say to you?

18 A Mr. Goldman asked me whether I could sell

19 this merchandise on a cash basis.

20 Q What did you tell him?

21 A I told him I would have to get the samples and

22 see what I could do.

23 Q Did he give you samples of cloth?

24 A He did.

25 Q What did you do with those samples of cloth?

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Cohen - Direct

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A I brought those samples to Bayer-Eisenberg, showed them to him. I gave him the price and I told him this would have to be on a cash basis.

THE COURT: What do you mean by a cash basis?

THE WITNESS: They pay for the goods cash if they get a special discount.

THE COURT: They pay immediately?

THE WITNESS: Right.

THE COURT: The normal course is they have trade period in which to make payment?

THE WITNESS: That's net 30 days, net 60 days.

THE COURT: Thirty to sixty days?

THE WITNESS: That's right.

Q Who was the cash payment to be made to?

A To me.

Q And who were you to make the cash payment to?

A To Mr. Goldman.

Q Is it an unusual practice in the textile industry to buy goods for cash?

A No, it's not unusual.

Q Was a discount given for the cash sale?

A There was.

Q Who arranged for the shipment of these goods?

A Mr. Goldman.

17

17

1 Gjc Cohen - Direct 24

2 Q How would payment be made for the sale of these

3 goods specifically?

4 A Well I made an invoice to Bayer-Eisenberg after

5 getting all the information from Mr. Goldman and I gave the

6 invoice to Bayer-Eisenberg and they in turn, in a day or two,

7 gave me the check for the merchandise.

8 THE COURT: How was the check made out?

9 THE WITNESS: To Michael Cohen.

10 Q Why was the check payable to Michael Cohen, to

11 you?

12 A I made the invoice for it.

13 Q What did you do with that check that was made out

14 to you?

15 A I cashed the check.

16 Q What did you do with the cash from that check.

17 A I brought the cash to Mr. Goldman.

18 Q Where did you bring it to him?

19 A 180 Madison Avenue.

20 Q Approximately how many transactions did you conduct

21 with Mr. Goldman in this fashion where you gave him the cash?

22 A I'd say five or six times.

23 Q In all of your dealings with Mr. Goldman how did

24 you receive your commission for these sales of cash?

25 A From Bayer-Eisenberg.

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1 Gjc

Cohen - Direct

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2 Q Did Bayer-Furberg give you cash or did they
3 give you a check?

4 A Check.

5 Q Did there come a time when you met an individual
6 by the name of Rudy Lewis?

7 A That's right, I did.

8 Q Approximately when was that?

9 A I'd say approximately two, two and a half years
10 ago.

11 Q Where was it that you met Mr. Lewis?

12 A At 180 Madison Avenue.

13 Q Who introduced you to Mr. Lewis?

14 A Mr. Goldman.

15 Q Would you be able to identify Mr. Lewis if you saw
16 him again?

17 A Yes.

18 Q Do you see him here in the courtroom today?

19 A I do.

20 Q Would you please point him out to the jury?

21 A Right there on the end.

22 MR. WINOGLAD: Conceding.

23 THE COURT: Identification conceded..

24 Q After you had conducted these cash transactions with
25 Mr. Goldman, did there come a time when you received a tele-

1 Gjc Cohen - Direct 26
2 phone call from Mr. Lewis?
3 A That's right.
4 Q Would you please --
5 MR. WINOGRAD: Your Honor, I am going to object
6 to the leading nature of these questions.
7 THE COURT: Yes, you are leading quite a bit
8 now, counsellor. Try and stop it.
9 Q Will you please tell the jury what Mr. Lewis
10 said to you in that conversation?
11 A He asked me to come to the office, he had some
12 merchandise that he would like me to sell.
13 Q Did he tell you --
14 MR. WINOGRAD: Objection.
15 THE COURT: Yes, sustained.
16 Q What else did he say?
17 THE COURT: You may answer that.
18 THE WITNESS: Pardon?
19 THE COURT: You may answer what else did he
20 say?
21 A Nothing else.
22 Q Approximately when was that conversation?
23 A I'd say about -- that was after Mr. Goldman left
24 there.
25 Q How do you know that?

20

1 Gjc John - Direct 27

2 A He told me that Mr. Goldman was no longer employed

3 there.

4 Q Who told you that?

5 A Mr. Lewis.

6 Q When did he tell you that?

7 A The particular time?

8 Q Yes.

9 A When he left, I don't remember, just the exact

10 time.

11 Q But do you recall how it was that Mr. Lewis told you

12 that Mr. Goldman had left?

13 A When?

14 Q Or how did he tell you that, when?

15 A When he spoke to me on the phone.

16 Q Did you in fact go to Mr. Lewis' office?

17 A I did.

18 Q Where is that office located?

19 A 180 Madison Avenue.

20 Q Is that the same office where Mr. Goldman is

21 located?

22 A The same office.

23 Q What did Mr. Lewis say to you when you met him at

24 his office?

25 A He gave me some samples. He asked me whether I

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1 Gjc Cohen - Direct 23

2 could sell them and whether I could sell them on a cash

3 basis, the same as I did for Mr. Goldman.

4 Q Did he say that these were samples of cloth?

5 MR. WINOGLAD: Objection to the leading nature of

6 the question, Your Honor.

7 THE COURT: I'm not sure I understand the

8 question. He said he gave him samples of cloth.

9 MR. AKERMAN: Okay.

10 THE COURT: You did say that, didn't you, that

11 he gave you samples of cloth?

12 THE WITNESS: That's right.

13 Q Did he give you a price for the samples?

14 A Yes, he did.

15 Q What did you do with those particular samples?

16 A I brought them to Bayer-Eisenberg, showed them to

17 Mr. Eisenberg. I don't recall whether he agreed on the price

18 or I got a counter-offer on the price.

19 Q Did Bayer-Eisenberg ultimately agree to buy the

20 goods for cash?

21 A Yes, they did, provided they got a discount.

22 Q How was the payment for these goods made?

23 A It was made to Michael Cohen. That's me.

24 Q Who did you receive the check from?

25 A Bayer-Eisenberg.

22

1 Q What did you do with that check?

2 A Cashed it.

3 Q Why was the check made out to you, again, in this
4 instance?

5 A I had invoiced the merchandise to Bayer-Eisenberg.

6 Q And what did you do with the check after you
7 received it from Eisenberg?

8 A Cashed it.

9 Q Who did you give the cash to?

10 A Mr. Lewis.

11 Q Where did you give Mr. Lewis the cash?

12 A At 180 Madison Avenue.

13 Q Approximately how many cash sales did you trans-
14 act with Mr. Lewis in which you gave him cash for goods?

15 A If I remember right, about four or five sales.

16 Q Did all of these particular payments in cash
17 take place at 180 Madison Avenue?

18 A I think on one occasion, I think it was done in
19 a luncheonette around the corner on 34th Street.

20 Q This is around the corner from where?

21 A Their office.

22 Q Is this 180 Madison Avenue?

23 A 180 Madison Avenue.

24 Q How did you receive your commission in these sales
25

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1 Gjc Cohen - Direct 30
2 in which you took part with Mr. Lewis?
3 A From Bayer-Eisenberg by check.
4 Q Directing your attention to early January of this
5 year, did you have a telephone conversation with Ivan Gold-
6 man?
7 A Yes, I did.
8 Q Would you please tell the jury what Mr. Goldman
9 said to you?
10 A Mr. Goldman told me that he was requested or
11 invited to come to the F.B.I. office.
12 Q What did he say he was invited to go to the F.B.I.
13 office for?
14 A Well, I had asked him and he told me that all they
15 wanted to know was what position he held with Guilford
16 Mills.
17 Q What did you tell him?
18 A I told him not to go there without an attorney and
19 not to sign any papers.
20 Q Did there come a time when you heard from him
21 again?
22 A After his visit he called me.
23 Q What did he say to you?
24 A And he told me that they questioned him and he was
25 ruffled and he denied everything.

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1 Gjc

Cohen - Direct

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2 Q Did he tell you that he did anything?

3 A No. Well, he signed a paper.

4 Q What did you say to him?

5 A I told him he's a damn fool and that was the end
6 of that.

7 MR. AKERMAN: I have no further questions of
8 this witness, Your Honor.

9 I'm sorry, I do have some other questions.

10 Q Mr. Cohen, I show you what has been marked as
11 Government Exhibit 2 for identification. Can you identify that
12 particular exhibit?

13 A Yes. That's my invoice.

14 Q How can you identify it?

15 A Well, I even have some of my writing on here.

16 Q The second document on this particular exhibit,
17 who did you receive that from?

18 A From Mr. Goldman.

19 Q I show you Government Exhibit 2A for identification.
20 Can you identify that particular exhibit?

21 A That's my invoice.

22 Q I show you Government Exhibit 2B and 2C for iden-
23 tification. Can you identify those particular exhibits?

24 A Yes. That's a check that was paid to me.

25 Q How can you identify it?

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1 Gjc Cohen - Direct 52
2 DIRECT EXAMINATION
3 CONTINUED
4 BY MR. AKERMAN:
5 Q Mr. Cohen, did Mr. Lewis give you an invoice for
6 that information?
7 A No, he didn't. He gave me the packing slips.
8 MR. AKERMAN: Your Honor, are these exhibits
9 received in?
10 THE COURT: Yes, they are.
11 (Government Exhibits 7A, 7B and 7C received in
12 evidence.)
13 MR. HYMAN: Your Honor, objection.
14 Your Honor, may we have a limiting instruction
15 with respect to Mr. Goldman as these items are apparently
16 designated going to Mr. Lewis after Mr. Goldman left?
17 THE COURT: Yes, surely. These items, 6A through
18 C and 7A through C are admitted only against Mr. Lewis
19 and they are received with respect to the conspiracy count
20 subject to connection.
21 Q Mr. Cohen, I show you Government Exhibit 7A. What
22 is that particular exhibit?
23 A It's an invoice.
24 Q Where did the goods go on that invoice?
25 A Bayer-Eisenberg.
Q What does the "Less 10%" on the invoice mean?

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Gjc Cohen - Direct 53

A Cash purchase.

Q Where did you get the information that's placed on that invoice?

A Mr. Mr. Lewis.

Q Where did he give you that information?

A At his office.

Q Where is his office?

A 180 Madison Avenue.

Q In New York City?

A That's right.

Q I show you Government Exhibit 7B. What are those two checks which appear on that exhibit?

A For the invoices.

Q What did you do with the cash that you got from those two checks?

A I brought it to Mr. Lewis.

Q Where did you give it to him?

A 180 Madison Avenue.

Q I show you what has been marked as Government Exhibit 7C in evidence. What is that particular check?

A A commission check.

Q For what particular transaction?

A Those transactions.

Q That's for the transaction on Government Exhibit 7A?

27

1 GWjc Cohen - Recross 164
2 have a telephone number where he can be reached and the next
3 witness will be Mr. Eisenberg.
4 MR. WINOGRAD: No objection.
5 MR. HYMAN: No objection.
6 MR. WINOGRAD: Your Honor, yesterday the Govern-
7 ment asked that my client submit handwriting exemplars. We
8 consented. Later during the day, at the close of the
9 business day, the Government indicated to me that they did
10 not wish to take exemplars so we did not give exemplars.
11 I wanted the record to be clear on that.
12 THE COURT: All right. Fine.
13 (Jury entered courtroom.)
14 THE COURT: There were no further questions
15 for Mr. Cohen and he has been excused.
16 Consequently you may call your next witness.
17 MR. AKERMAN: Your Honor, the Government calls
18 Mr. Philip Eisenberg.
19 MR. HYMAN: Your Honor, we seem to be missing
20 defense counsel for Mr. Lewis.
21 THE COURT: He was here a second ago.
22 (Mr. Winograd enters courtroom.)
23 THE COURT: Let the record reflect Mr. Winograd's
24 presence has been reobtained.
25 PHILIP EISENBERG, called as a witness by

the Government, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. AKERMAN:

Q Mr. Eisenberg, by whom are you employed?

A Bayer-Eisenberg.

Q What is your position in that company?

A Treasurer.

Q Are you one of the owners of that company?

A Yes, I am.

Q What kind of business does Bayer-Eisenberg
deal in.?

A Jobbing and exporting, wholesaling.

Q What do they sell?

A Textiles, piece goods.

Q These are cloth fabrics?

A Yes, cloth.

Q Is Bayer-Eisenberg currently a functioning company?

A No, they are not.

Q When did they go out of business?

A December 9, '76.

Q Approximately how many years were you involved in this business?

A Forty.

1 GWjc

Eisenberg - Direct

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2 Q Did there come a time when you met a man by the name
3 of Michael Cohen?

4 A Yes, I did.

5 Q Approximately how long have you known Mr. Cohen?

6 A Ten or twelve years.

7 Q Approximately when did you start dealing with Mr.
8 Cohen on a business relationship?

9 A About five or six years.

10 Q Would you please describe to the jury what kind
11 of a business relationship existed between Michael Cohen
12 and Bayer-Eisenberg?

13 A He would act as a broker, go to various places
14 and get samples of merchandise and bring it to us, submit
15 it to us, and if we liked it, buy it.

16 Q Was this textile merchandise?

17 A All textiles, yes.

18 Q Would Mr. Cohen receive a salary from Bayer-
19 Eisenberg?

20 A No, he would not.

21 Q How was he paid?

22 A Commission.

23 Q Was this the usual practice for a buyer like Bayer-
24 Eisenberg to give commissions?

25 A Yes.

1 GWjc Eisenberg - Direct 167
2 Q Would you please describe to the jury how these
3 particular transactions would start?
4 A Well, he would submit samples to us and if we
5 liked it we would buy it, if the price was right.
6 Q When he gave you samples, did he also give you a
7 price?
8 A Yes, he did.
9 Q Did you always accept that price?
10 A No, we did not.
11 Q What would you do?
12 A We would give a counter offer if we liked the
13 goods.
14 Q Did there come a time you bought merchandise from
15 Guilford Mills through Mr. Cohen?
16 A Yes, we did.
17 Q Approximately when was that?
18 A About early 1975.
19 Q Did Mr. Cohen bring you samples of goods from
20 Guilford Mills?
21 A Yes, he did.
22 Q Did he also give you a price for the goods?
23 A Yes, he did.
24 Q Did you always accept that price?
25 A No.

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1 GWjc Eisenberg - Direct 168

2 Q Did you make a counter offer in some cases?

3 A In some cases we did.

4 Q Did he tell you who his contact was at Guilford

5 Mills?

6 A No, he did not.

7 Q How did you pay for the goods that you received

8 in the first few shipments from Guilford Mills?

9 A We paid the factors of Guilford Mills.

10 Q Would you please describe to the jury what a

11 factor is?

12 A A factor is someone who guarantees the account

13 for the seller.

14 Q How did you pay the factor?

15 A We paid them by check to their company,

16 whichever factor it was.

17 THE COURT: How soon did you pay them --

18 immediately? Thirty days?

19 THE WITNESS: Whatever the terms were. It

20 would probably be thirty or sixty days.

21 Q Did there come a time when you paid for these goods

22 received from Guilford Mills in another way?

23 A Yes.

24 Q How did you pay for those goods?

25 A We got a bill from Michael Cohen and we paid him.

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1 GWjc Eisenberg - Direct 169

2 Q How did you pay him?

3 A We paid him by check. Whatever the terms were that

4 we agreed upon.

5 Q Was there anything unusual about you paying a check

6 to Michael Cohen for goods received from Guilford Mills?

7 Was there anything unusual about that?

8 A No, it wasn't. He was acting as a jobber then.

9 Q It is a common practice to pay money directly to

10 a broker for goods?

11 A If you get a bill from him for the goods, he is

12 acting as a jobber then.

13 Q What do you mean by a jobber?

14 A A man who buys goods and turned it over to another

15 person.

16 Q How did Michael Cohen receive his commission on

17 these sales from Guilford Mills to Bayer-Eisenberg?

18 A We would pay him the difference between what we

19 agreed on the price. Sometimes it would be three percent,

20 ten percent or whatever the amount would be.

21 THE COURT: Why do you pay a commission to a

22 jobber? I can understand paying a commission to a broker.

23 THE WITNESS: He acted as broker-jobber.

24 THE COURT: He was a broker-jobber?

25 THE WITNESS: Yes. In other words, he brought

1 GWjc Eisenberg - Direct 170
2 the samples down from the mills or from wherever he got the
3 samples and he would submit them to us. Therefore, he wouldn't
4 get any commission from them so we would have to pay the
5 commission, because they don't usually pay any commission.
6 So he would have to make it somehow.

7 Q How did you pay him this commission, by check or
8 cash?

9 A Cash -- check.

10 Q Approximately how many transactions took place
11 where goods were bought from Guilford and checks were
12 paid directly to Michael Cohen for payment for the goods?

13 A I guess about eight or nine.

14 Q Other than through Michael Cohen, had Bayer-
15 Eisenberg ever dealt with Guilford Mills?

16 A No, they did not.

17 Q I show you what has been marked as Government
18 Exhibit 2A in evidence. Can you identify that particular
19 exhibit?

20 A Yes.

21 Q How can you identify it?

22 A Well, it's marked to Bayer-Eisenberg.

23 Q Do your initials appear on this?

24 A Yes, and my initials appear.

25 Q Who did you receive that particular exhibit from?

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Gjc

Eisenberg - Cross

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CROSS EXAMINATION CONTINUED

BY MR. HYMAN:

Q Mr. Eisenberg, do you recall when the method of payment changed from the factors to Michael Cohen?

A Not exactly the date, but Michael Cohen came in and said he was going to bill the goods to me from now on, if we bought them.

Q How many times would he come in, do you recall, when you didn't buy them?

A A few times.

Q He would come in with samples from Guilford?

A That's right. I didn't know they were Guilford until after he told me or until we got the bill of lading.

Q You didn't care where they were coming from, you were just buying the samples from Mr. Cohen?

A That's correct.

Q And you had no knowledge of his individual transactions?

A No, I did not.

Q Was the price unusual?

A No.

Q Standard at that time?

A They were no different than the prices I was paying Guilford.

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1 GWjc

Eisenberg - Cross

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2 Q Did you find it unusual when Mr. Cohen wanted to
3 cash the checks?

4 A That was up to him. I didn't find it unusual.
5 He asked me to and I endorsed it, let him cash it.

6 Q You endorsed the checks?

7 A I okayed it for cash if he wanted to cash it.

8 Q Did you discuss it with Mr. Bayer?

9 A Yes, I did.

10 Q Did Mr. Bayer ever tell you if he discussed
11 the matter with Mr. Cohen?

12 A There was nothing really much to discuss.

13 Q Did Mr. Cohen or Mr. Bayer ever tell you that Mr.
14 Cohen wanted the money so he could have ready cash because
15 he wanted to travel?

16 A Not really. Not to my recollection.

17 Q Did Mr. Bayer ever tell you that?

18 A No. Not really.

19 Q Did Mr. Cohen ever tell you that?

20 A No.

21 MR. HYMAN: No further questions.

22 THE COURT: Mr. Winograd?

23 MR. WINOGRAD: I just have a few, Your Honor.

24 CROSS EXAMINATION

25 BY MR. WINOGRAD:

1 Gjc Eisenberg - Cross 191

2 If you will just take your time with it so we can all under-
3 stand it.

4 We have here an invoice from Michael Cohen to Bayer-
5 Eisenberg, all right?

6 A Right.

7 Q On this invoice it says --

8 A I can read it.

9 Q For the jury --

10 A I can read it. It's 25 cents.

11 Q Let me read it out loud.

12 A It says "Quantity, 7,503 yards, assorted prints,
13 number 9903, 44/45 inches, unit price 25 cents a yard,
14 amount \$1,875.75, total \$1,875.75.

15 Q That's all typewritten.

16 A Right.

17 Q What did that represent?

18 A That represented the amount of the bill for these
19 particular goods, exclusive of his commission.

20 Q Exclusive of his commission?

21 A Yes. In other words we arrived at a price of
22 31 cents or 30 cents, or whatever it was, and that's the way
23 it was paid. He would get two checks, one for the bill and
24 one for the commission.

25 Q The second listing on this bill of lading with re-

1 Gjc Duncan - Direct 211

2 Exhibit 19 for identification signed by both counsel.

3 THE COURT: I take it there is no objection
4 since you signed?

5 MR. WINOGRAD: It's been stipulated and signed
6 by myself, Your Honor.

7 THE COURT: It will be received.

X 8 (Government Exhibit 19 received in evidence.)

9 MR. WINOGRAD: May we read that to the jury
10 if it's received in evidence, that particular stipulation?

11 THE COURT: You may when it is your time.
12 Do you wish to have it read now, Mr. Akerman?

13 MR. AKERMAN: I don't see any need to, Your
14 Honor. It just relates to one document in the package. I
15 think it might save time just to go ahead and have Mr.
16 Duncan testify to the particulars.

17 THE COURT: If you want to read it to the jury
18 you may when your time comes.

19 MR. WINOGRAD: Thank you.

20 DIRECT EXAMINATION CONTINUED

21 BY MR. AKERMAN:

22 Q Mr. Duncan, directing your attention to Govern-
23 ment Exhibit 2 for identification, looking at this particular
24 exhibit, who was it that would have called you on the tele-
25 phone to place that order?

1 Gjc Duncan -- Direct

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2 A Nancy called in this one.

3 Q You see that there is a name written on the side.

4 Did you write that?

5 A No, sir.

6 Q What are the numbers which appear on this par-
7 ticular document?

8 A That is the case number.

9 Q What do those match up to?

10 A The bill of lading, the case slips where the goods
11 were packaged, the finished goods.

12 Q When you say cases, are these the cases of the
13 goods?

14 A The finished goods, yes, sir.

15 Q What is this address that appears in the top part
16 of the document that has Bayer-Eisenberg on it?

17 A To whom the goods were to be shipped.

18 Q Could you please speak up so the entire jury
19 can hear you?

20 Looking now at Government Exhibit 3D, who was it
21 that called you on this particular exhibit?

22 A Nancy.

23 Q Who was it shipped to?

24 A Bayer-Eisenberg.

25 Q Again, these are the case numbers that appear on

1 Gjc Duncan - Direct 213
2 here?
3 A The case numbers.
4 Q What is Free Association which appears on each of
5 these documents?
6 A Free Association is the company that we operated
7 under.
8 Q Who operated under?
9 A Guilford Mills.
10 Q Looking again at Government Exhibit 4E and
11 Government Exhibit 5D, who was it that called on both of
12 these orders?
13 A Nancy.
14 Q On Government Exhibit 4E, you have CO here, which
15 says overnight. What is that?
16 A Truck line.
17 Q What truck line was that?
18 A Overnight Transportation.
19 Q Did they deliver the goods?
20 A Yes.
21 Q As to Government Exhibit 6D, who was it that
22 placed the order on these particular goods?
23 A Rudy Lewis.
24 Q Looking at Government Exhibit 7D, could you tell
25 the jury again who was it that placed the order on that

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Gjc Duncan - Direct

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particular bill of goods?

A Rudy Lewis.

Q Looking at Government Exhibit 8E, can you tell the jury who it was that telephoned you and placed the order on those particular goods?

A Rudy.

Q Do you have the last name on there?

A Not the last name, no, sir.

Q Looking now at Government Exhibit 9D, could you please tell the jury who it was that telephoned you and placed the order on those particular goods?

A Rudy Lewis.

Q On each of these documents that you have identified, who was the customer that the goods were sent to?

A Bayer-Eisenberg.

Q Looking at the second document in each of these exhibits, which have the name of different trucking companies, would you please look at those?

A All right.

Q Have you looked at all those?

A Yes.

Q What are those particular documents?

A These are pro numbers assigned by the truck lines.

Q What do those documents show?

41

1 rg/lf/5 Kames-Direct

2 numbers and they were kept in a file.

3 Q What was this particular document called, though?

4 A An order. Oh, an order. A customer order.

5 Q This is the customer order that you placed to
6 Cranston?

7 A Against any released goods, right.

8 Q Did you ever use a packing slip?

9 A Yes. Packing memos and case memos, the same
10 thing.

11 Q What was on the packing slip?

12 A The number of cartons and the yardage in the carton.

13 Q Would you give that information to Cranston?

14 A Yes.

15 Q You said you gave the name of the customer. Was
16 that the buyer of the goods?

17 A Yes.

18 Q Was that the person to whom the goods would be
19 sent?

20 A Right.

21 Q After this particular information was given to
22 Cranston, were any documents received in your office at 180
23 Madison Avenue?

24 A Yes. A bill of lading would come into the office.

25 Q Approximately how many copies of the bill of lading

1 rg/lf/6 Kames-Direct

2 would come into the office?

3 A At least two.

4 Q Who would generally receive these bills of lading?

5 A They would come into Rudy, I believe.

6 Q Who was it that handled these bills of lading for
7 the most part?

8 A Rudy.

9 Q By Rudy you mean Mr. Lewis, is that right?

10 A Yes, Mr. Lewis.

11 Q What would Mr. Lewis do with these bills of lading?

12 MR. WINOGRAD: Objection, your Honor.

13 Q If anything?

14 MR. WINOGRAD: If she knows.

15 THE COURT: If you know.

16 A The bills of lading would be given to the gentleman
17 who did the billing. There was another person doing billing.

18 Q Who was that?

19 A George Elliot.

20 Q If the bills of lading did not go to George Elliot --

21 MR. WINOGRAD: Objection.

22 THE COURT: You are leading. Rephrase your question.

23 Q How would the customers be billed?

24 A The customers would be billed after receiving a bill
25 of lading indicating the goods that were shipped.

1 r3/lf/57

Smoak-Redirect

2 and find the sales order and further documentation. This
3 is only a copy of the invoice.

4 C You would need other documents, then?

5 A Yes, I would.

6 MR. AKERMAN: I have no questions of this witness,
7 your Honor.

8 THE COURT: You are excused.

9 (Witness excused)

10 THE COURT: Call your next witness.

11 MR. AKERMAN: At this time, your Honor, the
12 government calls Mr. Greenberg.

13 G E O R G E G R E E N B E R G, called as a

14 witness by the Government, being first duly sworn,

15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. AKERMAN:

18 Q Mr. Greenberg, what is your occupation?

19 A I am president of Guilford Mills.

20 Q How many years have you been president of Guilford
21 Mills?

22 A One.

23 Q What was your position with Guilford Mills prior to
24 being president?

25 A Executive vice president.

1 rg/lf/58

Greenberg-Direct

2 Q Where are your offices located?

3 A 180 Madison Avenue.

4 Q Would you please tell the jury what Guilford Mills
5 does?

6 A We are textile manufacturers.

7 Q How many years in all have you worked for Guilford
8 Mills?

9 A Ten.

10 Q Prior to that time what is your experience in the
11 textile business?

12 A Well, for six years I was a principal in Seeberg.
13 For four years prior to that I was sales manager of FAB
14 Industries. Three years prior to that I was a principal in
15 REN Textile. For eight years prior to that I was general
16 manager of National American Textiles. All in all, 31 years.

17 Q In the course of the 31 years you have been in the
18 textile industry, have you bought and sold textiles?

19 A Many times.

20 Q Are you familiar with the price of textile goods?

21 A Yes.

22 Q Are you familiar with the price of goods sold by
23 Guilford Mills?

24 A Yes, sir.

25 Q I am going to show you Government's Exhibits 2 through

1 rg/lf/59 Greenberg-Direct

2 9. I ask you to look at those particular exhibits. Can
3 you identify those exhibits?

4 A Yes, sir.

5 Q How can you identify them?

6 A I have initialed them prior to this minute.

7 Q What did you do with those particular exhibits?

8 A I examined the packing slips and collated them
9 according to the bills of lading.

10 Q What did you do after you examined the packing
11 slips?

12 A I checked for yardage, quality and whether the amount
13 of packing slips were the same as the bill of lading.

14 Q Did you do evaluation of those goods?

15 A Yes, I did.

16 Q Did you do an evaluation for the whole value of the
17 goods represented by those particular bills of lading?

18 A Yes, I did.

19 Q I think you have before you what is your evaluation,
20 is that right?

21 A Yes, sir.

22 Q Let me take that from you. I have what is the
23 court exhibit which has been marked as Government's Exhibit
24 18 for Identification and I have copies of this also for defense
25 counsel so that they can follow.

1 rg/lf/60 Greenberg-Direct

2 You say that you valued these at wholesale value,
3 is that right?

4 A Yes, sir.

5 Q Would you please explain to the jury what the whole-
6 sale value is, or what that means?

7 A That's the price that we sell goods to manufacturers,
8 people who make dresses or underwear, housecoats, all ready-to-
9 wear apparel.

10 Q The goods that are represented by Government's Exhibits
11 2 through 9, do you sell those to wholesalers?

12 A Yes, sir.

13 Q You also did evaluation for the retail value as
14 well, is that right?

15 A Yes, I did.

16 Q What is the retail value?

17 A The retail value is the value of a yard of goods
18 after you put it on a board, you double and roll the goods
19 as you see in the stores and we sell it to people such as
20 J.C. Penny's, Sears Roebuck, K-Mart.

21 Q The particular goods that are represented in the
22 documents Government's Exhibits 2 through 9, are those
23 particular goods sold to retailers such as J.C. Penny's?

24 A Yes, sir.

25 Q Would you please tell the jury what the retail and

1 rg/lf/61

Greenberg-Direct

2 wholesale value is of Government's Exhibit 2?

3 MR. WINOGRAD: Objection to the retail value, your
4 Honor.

5 THE COURT: Yes.

6 Are you familiar with the firm of Bayer-Eisenberg?

7 THE WITNESS: Not really, sir.

8 THE COURT: How does the retail value compare with
9 the wholesale value? Is it a multiple of the wholesale
10 value or does it vary?

11 THE WITNESS: It varies, but it is usually higher
12 priced. That is not the retail value, I believe, sir, that
13 he is talking about. It is the price that we sell goods to
14 a J.C. Penny.

15 THE COURT: I understand that. If you are selling
16 to a retailer directly, that would be retail value?

17 THE WITNESS: Yes, sir.

18 THE COURT: If you are selling to a wholesaler who,
19 in turn, is going to sell to retailers, that would be the
20 wholesale value?

21 THE WITNESS: Yes, sir.

22 THE COURT: I entertain substantial doubt at this
23 point whether the proper market value here should be retail
24 as opposed to wholesale. Rather than have the witness re-
25 called, I haven't made a final ruling on that point, rather

1 re/1f/62 Greenberg-Direct
2 than having to recall the witness, I think we can get his
3 testimony that the values stated on the exhibit under "retail"
4 were what he would believe the value to be if he were selling
5 to a retail dealer, but I am not at this point admitting that
6 as evidence because so far the only evidence has been that
7 Bayer-Eisenberg bought on a wholesale basis and would only
8 pay wholesale prices. If the evidence comes in differently,
9 or if my review of the law changes my mind, we will go with
10 that.

11 MR. AKERMAN: That is satisfactory to the government.

12 MR. WINOGRAD: Excuse me, your Honor, I would
13 object to that procedure and ask your Honor to consider this.
14 With respect to the retail value, should your Honor decide
15 that that would be the proper value, that at that time the
16 counsel both for the government and the defense could then
17 stipulate that if Mr. Greenberg were recalled, that would be
18 his testimony as to retail value.

19 THE COURT: Either way is fine by me, so long as we
20 don't have to recall the witness in the event that I rule
21 that retail value is the proper measure.

22 MR. WINOGRAD: Then I would suggest most respectfully,
23 your Honor, that he not answer as to retail value now, but
24 should your Honor rule that retail value would be beneficial
25 for the jury, then at that time we would stipulate.

1 rg/lf/63 Greenberg-Direct

2 THE COURT: I thought my way was even easier, that
3 we fold the document over; that he merely look at the figures
4 there and say that the figures that are on the back side of
5 the document are his belief of retail value and that for the
6 time being he only testify in terms of numbers about the
7 wholesale value.

8 MR. WINOGRAD: But if your Honor rules that retail
9 value is not relevant to the case --

10 THE COURT: Then we take a scissors and cut the
11 edge of the document off.

12 MR. WINOGRAD: But the jury already heard the
13 evidence.

14 THE COURT: I am not allowing him to testify in
15 words what the figures are, merely that the portion of the
16 document that has retail value, which in every instance is
17 higher figures than the wholesale value, is what he would
18 state to be the retail value, if that is to be considered.

19 MR. WINOGRAD: Fine.

20 BY MR. AKERMAN:

21 Q Mr. Greenberg, what is the value of what is repre-
22 sented by Government's Exhibit 2, the value which you came
23 to for the wholesale value?

24 A \$18,709.

25 Q That's the wholesale value for Government's Exhibit 2.

1 rg/12/64 Greenberg-Direct

2 What is the wholesale value for Government's
3 Exhibit 3?

4 This would be Government's Exhibit 2, this one
5 starting from here.

6 A It starts from the top, I'm sorry.

7 C Correct.

8 A \$4,877.

9 THE COURT: You are incorrect in your previous
10 answer, then.

11 As to Government's Exhibit 2, the wholesale value is
12 \$4,877; the retail value would be a higher figure. Don't
13 give us the figure, but would it be the figure that appears
14 under that column 5 to the right?

15 THE WITNESS: Yes, sir.

16 Q Looking at Government's Exhibit 3, what is the
17 wholesale value of Government's Exhibit 3, matching the bill
18 of lading number with the bill of lading number on your chart?

19 A \$6,417.

20 Q Looking at Government's Exhibit 4, the bill of
21 lading number, matching that against the value on your chart,
22 what would be the wholesale value of that particular shipment?

23 A \$5,947.

24 C Looking at Government's Exhibit 5D, what would your
25 answer be for the wholesale value on that?

1 rg/lf/65 Greenberg-Direct

2 A \$5,814.

3 Q Now looking at Government's Exhibit 6D, what would
4 be the wholesale value of that shipment?

5 A \$11,362.

6 Q Now looking at Government's Exhibit 7D, what would
7 be the wholesale value of that particular shipment?

8 A \$18,613.

9 Q Now looking at Government's Exhibit 8E, what is the
10 wholesale value of that particular shipment?

11 A \$17,817.

12 Q Finally looking at Government's Exhibit 9D, what
13 is the wholesale value of that particular shipment?

14 A \$18,709.

15 Q Mr. Greenberg, do Guilford's customers ever pay for
16 their goods at the New York office at 180 Madison Avenue?

17 A No, sir.

18 MR. AKERMAN: I have no further questions of this
19 witness, your Honor.

20 CROSS EXAMINATION

21 BY MR. HYMAN:

22 Q Mr. Greenberg, you have given us figures. Have
23 you claimed these goods as a loss for insurance purposes?

24 A I don't think so.

25 Q Did you ever have to value these goods for insurance

1 rg/lf/66 Greenberg-Cross

2 purposes?

3 A Not that I know of.

4 Q So you have only had to value them here?

5 A That's right.

6 Q How have you arrived at your value?

7 A Those goods that were seconds we can produce in-
8 voices that we sold the goods at that price.

9 Q So let me understand now, sir. I am looking at a
10 document known as bill of lading 84962 which has a style
11 known as 9903 and you have a price per yard of 65 cents,
12 is that correct?

13 A For the seconds. First quality goods would be 95
14 cents.

15 Q This invoice, then, on March 7, 1975, that apparently
16 Mr. Cohen gave Bayer-Eisenberg for prints 9903 at 25 cents
17 a yard, that, you say, is not the value?

18 A That is a fact.

19 C It's off by 40 cents?

20 A That's right.

21 Q You say anyone in the industry would know that,
22 you think, who was dealing with it day to day?

23 A Yes, I believe so.

24 Q Do you think Mr. Eisenberg or Bayer-Eisenberg would
25 have known that they were getting goods at a fantastic

1 rg/lf/67

Greenberg-Cross

2 difference in price?

3 A Would you like me to produce three witnesses that --

4 THE COURT: Just answer the question yes or no.

5 A I don't know whether they would know, no.

6 Q But you think they should have known?

7 MR. AKERMAN: I object, your Honor. The witness
8 has already answered the question.

9 THE COURT: Yes, he has. Sustained.

10 Q Have you ever had dealings with Bayer-Eisenberg
11 before?

12 A No.

13 Q Will you have dealings with them in the future?

14 A I don't think I should answer that.

15 MR. HYMAN: Your Honor, I would ask if the witness
16 would answer that question.

17 MR. AKERMAN: This is a speculative question as to
18 whether they would or not. I object.

19 THE COURT: I'll put it this way.

20 Would you advance credit to them?

21 THE WITNESS: No, sir.

22 THE COURT: Would you go back to the third transaction,
23 that covered by Exhibit 4. Do you have Exhibit 4 in front of
24 you?

25 THE WITNESS: I don't have it, sir.

1 rg/lf/68

Greenberg-Cross

2 MR. AKERMAN: I have it, your Honor.

3 THE COURT: Give him Exhibit 4 back again.

4 THE WITNESS: Yes, sir.

5 THE COURT: What did you say you calculate to be
6 the proper wholesale value for those goods?

7 MR. AKERMAN: I will give the witness his calculations
8 also, your Honor.

9 THE COURT: All right.

10 THE WITNESS: \$5,947.

11 THE COURT: You put together, then, the two
12 separate figures that were listed on the two separate invoices
13 to come up with that?

14 THE WITNESS: Yes, sir.

15 THE COURT: As I understand your testimony, then,
16 in your opinion all of the shipments except the first ship-
17 ment had a wholesale value in excess of \$5,000?

18 THE WITNESS: Yes, sir.

19 BY MR. HYMAN:

20 Q Mr. Greenberg, are you familiar with a style 9939?

21 A May I have my --

22 Q Sure. What is it that you need, sir?

23 A The sheet of paper that I had brought in.

24 Q Is this it?

25 MR. HYMAN: I guess maybe we should mark it if Mr.

55

1 rg/lf/69 Greenberg-Cross

300

2 Greenberg is making reference to it.

3 THE COURT: All right.

xxx 4 (Defendant's Exhibit D marked for identification.)

5 Q Looking at that sir, 9939, the style number. Do
6 you have a value for that per yard?

7 A Yes, sir.

8 Q What is that per yard? If you need more informa-
9 tion, Mr. Greenberg, please ask for it and I will give you
10 whatever document we have.

11 A Thank you. I don't need any more.

12 The seconds were 65 cents a yard and the first
13 quality goods were \$1.10 a yard.

14 Q Is that the voiles; is that what that is known as,
15 9939?

16 A Batistes, yes. Voiles.

17 Q So you say 65 cents a yard?

18 THE COURT: Seconds.

19 Q Seconds?

20 A Yes.

21 Q And \$1.10 or 20 for firsts?

22 A \$1.10.

23 Q What time period are we talking about?

24 A We are generally talking about the time frame that
25 these transactions took place.

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1 rg/lf/70 Greenberg-Cross

2 Q If I say late '74, early '75 through the year '75,
3 that's what our evaluations are with regard to; that's when
4 these transactions apparently had taken place?

5 A Yes.

6 Q Mr. Greenberg, let me show you Government's
7 Exhibit 12. Will you read for me the style number that you
8 see on that exhibit?

9 A 9939.

10 Q Will you go over and tell the jury what the price
11 is per yard?

12 A $32\frac{1}{2}$ cents.

13 Q Not 65 cents?

14 A Not on this invoice.

15 Q Let me ask you about style 9904. Is that similar
16 in price to 9903?

17 A I didn't take that style number down because,
18 frankly, there was only 438 yards involved on the whole
19 thing with this.

20 Q Is it close, though?

21 A I wouldn't know. I am not familiar with the style
22 number.

23 Q Let me show you Government's Exhibit 11 and ask you
24 if you can tell us the style number and the price per yard.

25 A Is this Government's Exhibit 11?

1 rg/lf/71 Greenberg-Cross

2 Q Yes, sir. The one I just gave you is Government's
3 Exhibit 11. If you look at the last page you will see refer-
4 ence to the exhibit there.

5 THE COURT: What style number are we talking about?

6 MR. HYMAN: 9939, your Honor.

7 A Yes.

8 Q What is the price there?

9 A $32\frac{1}{2}$ cents.

10 THE COURT: That appears to be exactly half of
11 65 cents.

12 THE WITNESS: May I explain something, sir?

13 MR. HYMAN: If I may, your Honor.

14 THE COURT: Mr. Akerman will elicit the latter.

15 MR. HYMAN: Just so he can have a clear train of
16 thought.

17 C I am going to show you Government's Exhibit 17 and
18 ask if you will tell us the style number that is listed
19 there.

20 A 9903.

21 Q That's the same style we have been talking about
22 before as well, right?

23 A Yes.

24 Q You told us that the value of 9903 wholesale for
25 seconds is 65 cents?

1 rg/lf/72

Greenberg-Cross

2 A That's right.

3 Q Will you tell us what the price per yard is on
4 Government's Exhibit 17?

5 A 25 cents.

6 THE COURT: That's from Exhibit 16?

7 MR. HYMAN: 17, your Honor.

8 THE COURT: What quality are you dealing with
9 there?

10 THE WITNESS: 9903, sir.

11 THE COURT: Not style, quality.

12 THE WITNESS: It's a hundred percent --

13 THE COURT: Is it a first or a second or what?

14 THE WITNESS: It's a hundred percent cotton.

15 THE COURT: But is the quality first quality,
16 second quality, what?

17 THE WITNESS: The invoice doesn't -- it says seconds.

18 Q Mr. Greenberg, do those documents that I have just
19 showed you, Government's Exhibits 11, 12 and 17, reflect
20 billing from Guilford to Bayer-Eisenberg?

21 A The invoices so state so, yes, sir.

22 Q Do you know Michael Cohen?

23 A No.

24 Q Do you know Howard Cohen?

25 A Yes. No. I'm sorry. Are you talking about the

1 rg/lf/73

Greenberg-Cross

2 Howard Cohen that works for -- for Hull?

3 Q Yes.

4 A Yes, I know Howard Cohen.

5 Q What was Howard Cohen's position with Hull?

6 A He was a salesman. He was our sales representative,
7 I guess.

8 Q "Our," you are saying. I gather that Hull was, in
9 fact, part of the Guilford team, was it not?

10 A Free Association was a division of Guilford.

11 Q And Hull?

12 A Hull did business with Guilford Mills, yes, sir.

13 Q Did you help Howard Cohen to have Michael Cohen
14 do business with Guilford?

15 A Not that I know of.

16 Q Do you know whether Howard Cohen introduced Michael
17 Cohen to Guilford?

18 A No, I do not.

19 MR. HYMAN: No further questions.

20 THE COURT: Mr. Winograd?

21 MR. WINOGRAD: No questions.

22 THE COURT: Redirect.

23 REDIRECT EXAMINATION

24 BY MR. AKERMAN:

25 Q Mr. Greenberg, what was the explanation you wanted

1 rg/1f/74 Greenberg-Redirect

2 to give before?

3 A In fact, these goods came out of probably our
4 sample department.

5 MR. WINOGRAD: Objection to "probably," your Honor.

6 Q What is the explanation for the lower price?

7 A If you look at the invoices, they could be odd
8 cases here and there, and odd pieces, 174 yards, 235 yards,
9 120 yards. Cleaning up the sample room per se.

10 Q The exhibits you have testified to, Exhibits 2 through
11 8 which you have identified documents from, were those
12 constituting odd cases?

13 A No, sir.

14 Q Did they constitute samples?

15 A No, sir.

16 MR. AKERMAN: I have no further questions, your
17 Honor.

18 THE COURT: How small an amount would you have in-
19 volved in these unusually low prices? Look at those documents
20 and tell me what the amounts were.

21 THE WITNESS: In total, sir, or each item?

22 THE COURT: Each one.

23 THE WITNESS: You see, on the bottom of this invoice,
24 sir, the reason why I say it came out of our sample department
25 is because you have a plus charge for cuts which none of the

1 rg/lf/75 Greenberg

2 other invoices would have, unless they came out of the sample
3 department.

4 THE COURT: How much are you talking about in terms
5 of volume, yardage?

6 THE WITNESS: 468 yards, 120 yards, 235 yards,
7 174 yards. These are not cases. Cases of goods will run
8 five, six, seven, eight hundred yards.

9 THE COURT: They are small lots then. Look at the
10 other exhibits you have, Exhibit 17. How much is involved
11 there?

12 THE WITNESS: The largest case here is 300 and --
13 you have got one item for 360 yards; two items for 317 yards
14 and all other items are 100 yards.

15 THE COURT: All right, small amounts.

16 Looking at the tabulation that you have made, with
17 the exception of one shipment, the fourth one, which is
18 F2968 --

19 THE WITNESS: Yes, sir.

20 THE COURT: -- all of the others involved large
21 amounts, many thousands of yards, is that correct?

22 THE WITNESS: Yes, sir.

23 THE COURT: Turning, however, to the one shipment
24 that does have a few smaller amounts, which are those involved
25 in Exhibit 5, you have one large amount of 9903, some almost

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1 rg/lf/76 Greenberg

2 7,500 yards.

3 THE WITNESS: Yes, sir.

4 THE COURT: But you also have three smaller amounts
5 of three different style numbers. With respect to the
6 smaller amounts, could they have been sample qualities that
7 would have commanded a lesser price?

8 THE WITNESS: No, sir, because these came out of
9 the print plant itself from Fletcher. These came out of
10 Greensboro, North Carolina. That's the reason why these were
11 billed. You couldn't get around that system.

12 THE COURT: You got no samples of small amounts
13 being sold out of Cranston, I take it?

14 THE WITNESS: No, sir. They do not send sample
15 cuts to individual customers.

16 THE COURT: Except for sample cuts, were you ever
17 selling any of these various styles even as seconds for less
18 than 60 cents a yard?

19 THE WITNESS: It may be, sir. I really don't know.
20 What I have got here at the 65 cent price are many invoices
21 to other people that we sold at this price. That's the
22 general price.

23 MR. HYMAN: Your Honor, if I may.

24 THE COURT: Yes.

25 MR. HYMAN: Your Honor has opened an area that I

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1 rg/lf/77 Greenberg-Recross

2 would just like to discuss.

3 RECROSS EXAMINATION

4 BY MR. HYMAN:

5 Q If it came from the Cranston Print Works, it would
6 not be samples, right?

7 A That's right.

8 Q I can't hear you, Mr. Greenberg.

9 A That's right.

10 Q And if it came from the Hull Dye and Print Works,
11 it would not be samples, correct?

12 A Correct.

13 Q And if it came from the Newport Print Works, it
14 would not be samples?

15 A Correct.

16 Q Let me show you Government's Exhibit number 16 and
17 let me show you one document titled "Style 9939." It's
18 addressed to Bayer-Eisenberg. It is invoice number 50091
19 of Guilford Mills and it says, "Cranston Print Works order
20 complete."

21 Will you tell us the amount that your company
22 billed Bayer-Eisenberg for 9939 from Cranston Print Works?

23 A 25 cents.

24 Q If I may, Mr. Greenberg.

25 Let me show you another document, invoice number

1 rg/lf/78 Greenberg-Recross
 2 50092 from Guilford Mills to Bayer-Eisenberg, style 9903,
 3 total yardage involved in the sale, Mr. Greenberg, 10,500.20,
 4 and I would ask you to tell the jury for these 10,000 yards
 5 from Cranston Print Works what price you were selling to
 6 Bayer-Eisenberg?

7 A 25 cents.

8 MR. HYMAN: No further questions.

9 REDIRECT EXAMINATION

10 BY MR. AKERMAN:

11 Q Looking at this document, Mr. Greenberg, do you
 12 know what the reason is that they were charged 25 cents on
 13 those two?

14 A I can only think that it was an unauthorized --

15 MR. WINOGRAD: Objection to what he can only think,
 16 your Honor.

17 THE COURT: Yes, unless you know.

18 Can you tell us with any reasonable certainty why
 19 the price charged on goods that were being shipped from a
 20 processor were as low as they were?

21 THE WITNESS: Not with the documents that I have
 22 in my hand, no, sir.

23 Q Were those discontinued goods?

24 MR. WINOGRAD: Objection to the leading nature of
 25 the question.

rg/lf/79

Greenberg-Redirect

THE COURT: Yes, don't lead.

Q Is there anything --

A I wouldn't be aware of it, no, by looking at the invoices.

Q Did you look at all of the documentation surrounding the nine different bills of lading which you have identified here today?

A That I did. I have never seen these before so I couldn't check on them.

Q Did you check as to whether the nine different documents that you had today, whether these were discontinued or not?

A They were not discontinued.

MR. AKERMAN: I have no further questions, your Honor.

THE COURT: You are excused.

MR. HYMAN: Judge, just so we don't leave any loose ends.

RE CROSS EXAMINATION

BY MR. HYMAN:

Q Are you saying that that order was unauthorized?

A It could very well be.

Q Let us stop for a second, Mr. Greenberg, and let us see what you have.

rg/lf/80

Greenberg-Recross

THE COURT: I sustained your co-defendant's counsel's objection to that very remark.

MR. HYMAN: Excuse me.

THE COURT: You are now going into what Mr. Winograd successfully kept out, that these may have been unauthorized orders.

MR. HYMAN: These are the ones the government introduced as the valid billing. I am not going into anything, your Honor --

THE COURT: You don't get the point. He tried to speculate that these prices were unauthorized and I wouldn't let him. Do you really want to go into that?

MR. HYMAN: Maybe we ought to approach the side bar.

MR. AKERMAN: I would object to that as total speculation on this issue.

MR. HYMAN: Your Honor, I am not asking for his speculation at all. I am only going to ask, your Honor --

THE COURT: Go ahead.

MR. AKERMAN: Mr. Greenberg doesn't know what the validity of the orders was or not. He had nothing to do with these orders.

THE COURT: We are now dealing with orders that were sent and billed directly to Bayer-Eisenberg with payment to be made, I believe, to the factor and with occasional prices

1 rg/lf/81 Greenberg-Recross

2 as low as 25 cents a yard. Correct?

3 MR. WINOGRAD: Yes, your Honor.

4 MR. HYMAN: That is right, your Honor.

5 THE COURT: All right, ask your question.

6 RECROSS EXAMINATION

7 BY MR. HYMAN:

8 Q Looking at that document that you have, the invoice,
9 you see nothing untoward with regard to it, do you?

10 MR. AKERMAN: I object, your Honor. What does Mr.
11 Hyman mean?

12 THE WITNESS: I don't know what he means.

13 Q The document seems valid, does it not?

14 A What I see here, yes.

15 Q It does appear to be a valid invoice from Guilford
16 Mills?

17 A Yes.

18 Q So it has gone through the channels of Guilford
19 Mills?

20 A Yes.

21 Q Would you recognize initials?

22 A I might.

23 MR. AKERMAN: Your Honor, I object to this procedure.
24 Mr. Hyman is making the witness his own witness and asking
25 leading questions in this case.

1 rg/lf/82

Greenberg-Recross

2 THE COURT: I will overrule that, but I do wish
3 we would go somewhere.

4 MR. HYMAN: All right, your Honor, I believe the
5 point has been made. I will leave it.

6 No further questions of this witness.

7 THE COURT: All right, you are excused.

8 (Witness excused)

9 THE COURT: Call your next witness.

10 MR. AKERMAN: Your Honor, at this time the govern-
11 ment calls Agent Hackbart.

12 D A L E H A C K B A R T, called as a witness

13 by the Government, being first duly sworn, testified
14 as follows:

15 DIRECT EXAMINATION

16 BY MR. AKERMAN:

17 Q Mr. Hackbart, by whom are you employed?

18 A I am a special agent with the Federal Bureau of
19 Investigation assigned to the New York office.

20 Q Directing your attention to January 5, 1977, were
21 you on duty on that day?

22 A Yes, sir.

23 Q Where were you?

24 A At our office in New York City.

25 Q Where is that located?

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1 rg/lf/250

2 you must judge a case. I ask you to understand that Ivan
3 Goldman is a head converter today; he was a converter then
4 and he is not a thief.

5 I submit to you that when you come down -- you
6 must have the law in front of you, you must listen to Judge
7 Goettel and you must then bear in mind one important fact,
8 there must be guilt beyond a reasonable doubt, proof of
9 guilt beyond a reasonable doubt. If there is not, then you
10 must acquit. I submit to you in the case before you there is
11 not proof beyond a reasonable doubt and Ivan Goldman stakes
12 his life in front of you on the law and says to you, "I am
13 not guilty," and he has said that in law, he has said that
14 to the FBI. I submit to you now that you take this case
15 and I ask you to consider all the facts, all the elements,
16 including the \$5,000 valuation, and I ask you please to
17 consider it carefully and honestly, and I believe then that
18 you will reach a just verdict and I submit to you that verdict
19 is not guilty on all counts.

20 Thank you.

21 THE COURT: Mr. Akerman.

22 MR. AKERMAN: Thank you, your Honor.

23 What I would like to do now is just go back
24 and briefly respond to the various points that were brought
25 up during the last two summations. I will start with the

1 rg/lf/251

2 points that were raised by Mr. Winograd. Mr. Winograd asks
3 why didn't Michael Cohen have a receipt. First of all, you
4 saw Michael Cohen's records. Even Mr. Hyman over here referred
5 to the records as being somewhat shoddy. But let's look at
6 the type of transaction that was involved. There is one thing
7 that the defendant Goldman and the defendant Lewis wanted to
8 do and that was cover their tracks. They didn't want to give
9 a receipt, ladies and gentlemen. The only evidence we have
10 other than Mr. Cohen's testimony as far as their own state-
11 ment is Mr. Goldman's handwriting.

12 At the time he wrote this, as Mr. Hyman points out,
13 that was not the time he received the cash, and he did not
14 even put his name on this. The only reason that this has
15 come back to haunt him is the fact that his handwriting is
16 on there and an expert from the FBI testified that this is the
17 same handwriting of Mr. Goldman.

18 Mr. Goldman was a pretty clever guy. He was at
19 least clever enough to have Nancy Kames make the telephone
20 calls down to Cranston to have the goods go to Bayer-Eisenberg,
21 but Mr. Lewis over here wasn't quite as clever. He called
22 down to Cranston Print and he testified -- I asked him on
23 his cross examination if he had ever seen this particular
24 document. In fact, he said no, he had never seen this before,
25 but he had known Mr. Duncan and Mr. Duncan knew when that person

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called it was Rudy Lewis and the defendant Lewis had no idea that his name was going to be on here and that a permanent record would be left behind of his involvement on that particular transaction.

In fact, the only time that we don't have his full name on one of these is when he called down and he didn't know the person.

If there is anything these two defendants didn't want to leave behind, ladies and gentlemen, it was a receipt for those particular goods.

Mr. Winograd has also raised a point about this guy David who Mr. Cohen didn't know the first name of.

MR. WINOGRAD: Second.

THE COURT: The last name.

MR. AKERMAN: The last name, I'm sorry.

It wasn't Mr. Cohen who worked at Guilford Mills for 3½ years, it was the defendant Lewis who worked at Guilford Mills for 3½ years. In fact, you heard there were only 10 to 12 people in the Guilford Mills' office and now all of a sudden the defendant Lewis raises this whole question about this guy David who he doesn't know the last name of and says he saw Mr. Cohen meeting with this guy David, who he can't remember the last name of, even though Mr. Lewis has worked there for 3½ years, and even though the number of employees

1 r3/1f/253

2 at Guilford Mills, 180 Madison Avenue, is not overwhelming.

3 The fact remains, ladies and gentlemen, that if
4 this David were so important, why wasn't he called up to
5 the witness stand by the defendants to testify before you?

6 MR. WINOGRAD: Objection, your Honor.

7 MR. AKERMAN: They had the right to subpoena --

8 MR. WINOGRAD: Objection.

9 THE COURT: Sustained. Move on from there.

10 MR. AKERMAN: As to the other points that were
11 raised, you also heard statements made about the character
12 witnesses. Now, it's true that these two individuals may
13 have had good character and may have conducted themselves
14 well on other occasions, but that's not what they are charged
15 with here, ladies and gentlemen. What they are charged with
16 are separate crimes, totally unrelated to how they might have
17 conducted themselves previously.

18 Furthermore, they tried to make something of the
19 fact that it was so unusual about the cash payments. You
20 heard Mr. Eisenberg and both Mr. Cohen testify that there was
21 absolutely nothing unusual about cash payments.

22 They also brought out the fact that why would Mr.
23 Cohen be suddenly lying. Is he lying because he has any
24 kind of motive to frame either the defendant Goldman or the
25 defendant Lewis? There was absolutely no motive brought out.

1 rg/lf/254

2 In fact, Mr. Cohen testified from the stand that he liked
3 both of these individuals and that he even held back on some
4 of these crucial documents simply because he was hoping
5 this whole matter could be settled out of court and he
6 wouldn't have to testify against both of them.

7 Furthermore, both defendants, the defendant Goldman
8 has admitted knowing Michael Cohen and the defendant Lewis
9 has also admitted having lunch with him and meeting him several
10 times. There was absolutely no motive brought out whatsoever
11 as to why Michael Cohen would lie. In fact, if Michael Cohen
12 were really out to get either one of the defendants, would
13 he just stop at eight transactions? Would he just stop at
14 small amounts of money? Would he just stop at these little
15 deals? Wouldn't he give more evidence? Wouldn't he give more
16 deals?

17 MR. HYMAN: Objection to that, your Honor. The
18 evidence is in.

19 THE COURT: Sustained.

20 MR. AKERMAN: Mr. Hyman points out to the fact
21 about the system supposedly not working. He points to the
22 fact that the goods were shipped one year and the bill was
23 paid another year. Well, that's the whole point of this,
24 ladies and gentlemen. The fact that the system may not work
25 is the whole point of this case. The system in this case

1 rg/lf/255
2 hinged on individuals working at 180 Madison Avenue and
3 it hinged on one important factor with those individuals,
4 that the individuals who are in charge there were honest.
5 If those individuals were not honest, the system broke
6 down, because those particular individuals could then not
7 ship those bills of lading back to Guilford Mills and could
8 do what they want with those goods depending on how they
9 directed them from Cranston Print Works. The fact that
10 Guilford system may not have been foolproof, the fact that
11 they had to rely on the honesty of one or two individuals,
12 is totally irrelevant to the guilt or innocence of the defen-
13 dants. What's important is whether or not they acted honestly
14 in those particular positions.

15 You also heard Mr. Hyman talk about this number
16 that appears up on this particular document. Well, Mr. Smoak,
17 the controller of the company, testified before you that this
18 number means absolutely nothing; that there are lots of pads
19 like this all over Guilford Mills.

20 MR. HYMAN: Objection. That was not the number
21 we were referring to.

22 MR. AKERMAN: That is the only number on here.

23 MR. HYMAN: I was talking about the release number.

24 THE COURT: I think you were talking about different
25 things.

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1 rg/lf/256

2 MR. HYMAN: I was not talking about that form, I
3 was talking about another form.

4 THE COURT: He was talking about, I believe, the
5 form of Cranston which has a P.O. number, something of that
6 nature.

7 MR. HYMAN: That is correct, your Honor.

8 THE COURT: As to that number, he said he didn't
9 know what it was.

10 MR. AKERMAN: Whatever that number, it doesn't
11 really make any difference, because the fact remains that
12 the goods that are represented by this pink slip, the goods
13 that are represented by the order form which the defendant
14 Goldman filled out, those were the goods that went to Bayer-
15 Eisenberg. As I told you before, ladies and gentlemen, don't
16 be fooled by a smoke screen, because that's exactly what
17 that is. That number is totally irrelevant. The fact remains
18 this is the form that the defendant Goldman gave to Mr. Cohen;
19 this is the form that Mr. Cohen filled out with the information
20 directly from this form and these are the forms that show
21 that those particular goods went directly from Cranston to
22 Bayer-Eisenberg and that there was no bill of the payment
23 of those particular goods.

24 You also heard Mr. Hyman talk about these so-called
25 inconsistent statements on the part of Michael Cohen, the

1 rg/lf/257

2 fact that he told the FBI that his commission was included
3 within the original check and I think that he also testified
4 to that in the grand jury as well, but you also heard Michael
5 Cohen say that at that time he wasn't shown his documents
6 and he wasn't shown these records and when he was shown those
7 records it refreshed his recollection.

8 You also heard Mr. Eisenberg testify to the exact
9 same thing, that yes, this was the check for the commission,
10 this was the check for the bill.

11 Again, don't be fooled by a smoke screen. Again
12 in this particular case Mr. Cohen, when he had the documents,
13 was able to refresh his recollection as to what it was. Don't
14 be fooled by a minor problem.

15 Also the fact that some of these particular pink
16 slips have 10 percent taken off, sometimes you have two
17 checks, sometimes one check, but remember there are eight
18 separate deals that are involved here on eight separate
19 occasions. Again Mr. Hyman talks about the system not working,
20 about the possibility that a bill of lading could be misplaced
21 because of the confusion in the office. Well, you might be
22 able to accept that argument if this only happened once,
23 but the fact remains, ladies and gentlemen, it happened eight
24 times and all eight times the customer was Bayer-Eisenberg.

25 MR. HYMAN: Objection as to eight times as to the

27
rg/lf/258

defendant Goldman, your Honor. We are only talking about four transactions and I think the jury should be instructed as such.

THE COURT: I will allow it as a rebuttal that perhaps it was an error within the procedures of Guilford.

MR. AKERMAN: You also heard Mr. Hyman say that Nancy Kames never saw Michael Cohen there. Well, so what? The defendant Goldman in his own statement said that he dealt with Michael Cohen on a number of different occasions.

You also heard reference made to the fact that Michael Cohen went to the FBI and talked to them with a lawyer and you heard the fact that the defendant Goldman did not go with a lawyer. The important point, ladies and gentlemen, is not who was with him; the important point was who was telling the truth. The fact that Michael Cohen went to the FBI, fully cooperated, gave them all the documents and told the truth is irrelevant considering the fact that the defendant Goldman went to the FBI by himself and lied. And the reason we know he lied is not only because of Michael Cohen's testimony, but because his handwriting appears over every single count that he is charged with in this indictment.

You also heard Mr. Hyman talk about the valuation on these particular goods and say that Mr. Greenberg, the president of the corporation, was out to get the defendant

1 rg/lf/259

2 Goldman. First of all, Mr. Greenberg had no idea as to the
3 significance of what 5,000 was. In fact, he even testified
4 on one of these particular counts that the wholesale value
5 was less than 5,000 and for that reason the judge is going
6 to instruct you later on that that particular count cannot
7 be considered against the defendant.

8 MR. HYMAN: Your Honor, I am going to object to that
9 as a motive for Mr. Greenberg. I think that is highly improper
10 for the U.S. Attorney to be saying that.

11 THE COURT: I will charge on the value issue. Move
12 on.

13 MR. AKERMAN: Also as to Mr. Greenberg's testimony,
14 he told you that he took each one of these packages and went
15 back and compared these particular goods, the type of goods,
16 where they came from, the yardage, et cetera, to other goods
17 of the same quality and type that Guilford has been selling.
18 If anybody is knowledgeable on this particular area, it's
19 Mr. Greenberg.

20 As though these other invoices which might indicate
21 a lower amount, you also heard him testify that he didn't
22 have the chance to go back and testify as to what the back-up
23 documents showed, as to whether or not those particular goods
24 were closeouts, as to whether or not those particular goods
25 were no longer going to be sold by the company, as to what all

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the other multiple factors might have been that could have entered into what the price is. If the defendants really thought that the price made a difference, why didn't they call an expert to testify to a different value?

Finally let me address myself just to the general allegation that has been made that Michael Cohen was lying and that he is the one that pocketed the money.

First of all, I told you at the beginning of this trial to apply your common sense to this. Looking at this diagram, we do know conclusively from all of the documentation that the goods were ordered by Guilford Mills, that in four of the cases relating to the defendant Lewis, his name appears on it, we know that Nancy Kames ordered the four in which Mr. Goldman is charged and we know that Nancy Kames said she did this frequently for Mr. Goldman. We know the goods went to Bayer-Eisenberg, and we know that the money went to Mr. Cohen. The fact remains why would the defendant Goldman, why would the defendant Lewis gratuitously order these goods through the system and then not get anything out of it and not have the billing information go back to Guilford. It just doesn't make any sense, ladies and gentlemen. It just doesn't make any sense.

Furthermore, no motive is brought out why Mr. Cohen would lie. The only thing that has been brought out is nitpick-

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2 ing. The fact remains, ladies and gentlemen, that these
3 goods did not fall out of the sky. The fact remains that
4 these goods did not show up at Bayer-Eisenberg by themselves.
5 The fact remains that the only people who could have moved
6 those goods were people at 180 Madison Avenue --

7 MR. WINOGRAD: I am going to object to this as
8 improper rebuttal.

9 THE COURT: Overruled.

10 MR. AKERMAN: And that the evidence shows that the
11 people who moved those goods were the defendant Goldman and
12 the defendant Lewis and that the people who took the profits
13 from that particular illegal transaction, who took those
14 profits, were Mr. Goldman and the defendant Lewis and the
15 defendants should now accept the guilt for the crimes which
16 they have committed.

17 Thank you.

18 THE CLERK: The Court is about to charge the jury.
19 Any spectators desiring to leave the courtroom will do so now
20 or remain seated until the completion of the Court's charge.
21 The marshal will lock the door.

22 THE COURT: Members of the jury, you are now about
23 to start on your final function in this case, which is to
24 decide the factual issues.

25 I told you at the start of the trial that your



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